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March 16, 2018

Barbara Sears, Director
Ohio Department of Medicaid
50 W. Town Street
Columbus, OH 43215

RE: Comments and Recommendations on Ohio's Group VIII Work Requirement and Community Engagement Demonstration Waiver

Dear Director Sears:

Thank you for the opportunity to provide comments on Ohio's proposal to waive current Medicaid rules and establish work and community engagement requirements as a condition of eligibility for coverage under the Group VIII Medicaid expansion category. The Ohio Council of Behavioral Health and Family Services Providers (the Ohio Council) has significant concerns with the proposed waiver as it will cause Ohioans to lose access to critically needed physical, mental health and addiction treatment services. *While we appreciate the administration's efforts to craft this demonstration waiver in a manner that would limit its impact, there is no doubt it will be costly to implement and manage, administratively burdensome for providers to support their clients, and most importantly it will not lead to better health outcomes many Ohioans.*

Introduction:

The Ohio Council is a statewide trade and advocacy organization that represents more than 150 private businesses that provide community-based addiction treatment and prevention, mental health, and family services throughout Ohio. Many people accessing critical community-based behavioral health services are only able to do so because they have coverage through Ohio's Medicaid program. Indeed, it is widely understood that Medicaid expansion has allowed many Ohioans, for the first time, to seek and obtain mental health and addiction treatment services. According to the Kaiser Family Foundation, four out of ten non-elderly adults with opioid addiction are covered by Medicaid, and the Substance Abuse and Mental Health Services Administration (SAMSHA) reports that twenty-seven percent of individuals with serious mental illness are covered by Medicaid. Clearly, without such coverage, the overdose deaths and rates of untreated mental illness, already too high, would be even worse.

In short, access to Medicaid services for many in the Group VIII population has not only allowed Ohioans to access needed medical services but has also been a critical component of Ohio's efforts to address our state's addiction and suicide crises. Creating administratively costly barriers to health insurance coverage is unwise, misguided and harmful, especially in the middle of an opioid epidemic and mental health crisis.

General concerns:

It is well documented that the majority of Ohioans receiving healthcare services through Group VIII Medicaid expansion are working already. And those who are not are either taking care of a family member, retired, in school or unable to maintain employment due to mental or physical health reasons that prevent them from working, but do not qualify them as disabled for the purposes of Social Security or other Medicaid eligibility groups.

Further, the Ohio Department of Medicaid (ODM) report on the Group VIII population found that having access to health care is a significant factor in allowing Ohioans to work and seek work at greater rates. In contrast, while being engaged in work can be a valuable part of recovery for some people with substance use disorders or mental illness, simply being employed does not guarantee that a person will maintain their good health. Notwithstanding CMS Director Seema Verma's position, work in and of itself does not make a person healthier. Unfortunately, Ohio's waiver request appears to be a solution in search of a problem.

The Ohio Council has serious concerns that the imposition of work and community engagement requirements will likely have a disproportionate negative impact on Ohioans with mental illness and substance abuse disorders; causing them to lose the Medicaid coverage that they need to engage in treatment and recovery support services.

Our experience informs us that there are many factors that may prevent a person with a mental health condition or substance use disorder from completing the eligibility process under the proposed waiver. Mental health and addiction continue to be highly stigmatized, and individuals may not want to disclose their condition to a caseworker. Many people face socio-economic barriers to completing the needed paperwork and required meetings, including lacking a permanent address and transportation barriers. Many individuals may be able to work, but due to a history with the criminal justice system, they are unable to secure employment. All of these factors add to the myriad challenges that people with behavioral health conditions face when confronted with an already complicated eligibility system.

While we understand the administration crafted the proposed waiver in response to a legislative mandate and intends to exempt certain categories of Ohioans from the work and community engagement requirements, the waiver will unquestionably reduce access to mental health and addiction services. Indeed, the state's experience with implementing work requirements under Supplemental Nutrition Assistance Program (SNAP) and Ohio Works First (OWF) programs, shows that implementing such exemptions is incredibly difficult as many Ohioans lost eligibility under those processes.

Specific concerns

1. The waiver requirements will add heightened administrative barriers, bureaucratic hurdles and costly red tape to the eligibility process. The review and determination process will be expensive for the state to manage and the various County Departments of Job and Family Services (CDJFS) to administer. The process will also likely be inconsistent from county to county, allowing for wide variability in who is able to access the program, leading to determinations that are made not based on a person's eligibility, but where they live.

2. The proposed waiver indicates that individuals who are unfit for employment due to mental or physical health concerns would be exempt; however, the term physically or mentally unfit is undefined. While the waiver allows individuals to make this determination if they meet the definition and attest with signed documentation, the state's experience with implementing work requirements under SNAP and OWF are proof that administering such requirements can be overly restrictive, burdensome and challenging for CDJFS offices and Ohioans seeking to comply. The likely outcome is 88 counties will make their own unique standards and procedures to train county staff, creating barriers to coverage.
3. The waiver proposal states that self-attestation will be accepted for the determination of exemptions, but this process is not described, and it remains to be seen what level of supporting documentation will need to accompany the self-attestation. Community-based behavioral health providers are often requested to complete and or submit information on behalf of clients, which can be costly and time consuming. Further, sensitive diagnosis and treatment records can only be released with a properly executed authorization to disclose information limited to this purpose.
4. Due to the nature of Ohio's government system, the proposed waiver work requirements will likely be interpreted and administered in various ways throughout the 88 counties. The waiver does not describe any training to be delivered to CDJFS offices nor does it identify any resources to support such training or consumer awareness efforts.
5. The waiver describes that individuals who are engaging in drug or alcohol treatment are exempt but does not define what it means to be participating in drug or alcohol treatment, or what types of treatment are acceptable. This is likely to lead to confusion and multiple interpretations among consumers and counties.
6. We appreciate the intention of aligning the work requirements of the waiver to the SNAP program in an effort to decrease confusion and allow many currently who meet these requirements to easily retain their Medicaid benefits. However, the Ohio Council is concerned that there is great possibility of changes to the SNAP program at the federal level. If these changes take place, there will no longer be alignment among this waiver and the SNAP program, leading to confusion, additional administrative barriers, and Ohioans to lose not only their SNAP eligibility, but also their health care coverage.

Recommendations:

1. ODM and ODJFS must clearly delineate program standards and identify an individual with responsibility and accountability for implementing, training and monitoring the work requirement programs for consistency and efficiency among Ohio's 88 counties.
2. Establish a state-level ombudsman to assist individuals in navigating the Medicaid work and community engagement requirements; educate staff and individuals about the new requirements; accept reports of and investigate the following: 1) inconsistent application by CDJFS of the work requirements, exemptions, or process; and 2) county standards that

exceed the self-report attestation. The ombudsman would submit monthly reports to the ODM or ODJFS identified staff with responsibility and authority for work requirements implementation of reported concerns, investigations, and recommendations.

3. ODJFS in partnership with ODM must develop a robust and standardized training program to support implementation, ongoing training, and re-training on the Medicaid work requirements. Training (on-site, video conferencing, and web-based) must be completed for all CDJFS offices by the start of any Medicaid work requirement program, quarterly for the first year, and annually thereafter. New employees must complete the standardized training on the Medicaid work requirements within 30 days; at 90 days and annually thereafter.
4. Further define “physical or mentally unfit for employment” to support statewide uniformity in application of this standard. In defining the term, the administration should provide guidance and training to CDJFS staff that the term be liberally construed, and documentation should be viewed in the light most favorable to the applicant.
5. Define the self-attestation process and clarify that the individual’s self-report is the full and final documentation required to meet any of the exemption categories. Limit county prescribed requirements for additional documentation from a healthcare provider.
6. Clarify that engagement in drug or alcohol treatment includes participation in any level of care within the past twelve-months and includes time spent on a waiting list to access appropriate treatment, aftercare programs, and services that support long-term recovery.

Conclusion:

The Ohio Council appreciates the opportunity to submit the above comments and recommendations. We are very concerned the implementation of the proposed waiver requirements will reduce access to critical mental health and addiction treatment services. As Ohio is experiencing a devastating opioid epidemic and surging mental health crisis, this drastic change in Medicaid policy and practice does not appear to be a wise investment in government resources or sound public policy. We encourage the administration to take all precautions and planning steps to ensure that if approved the necessary resources, training and information will be shared with all appropriate entities to support its implementation.

Thank you for your time and consideration.



Lori Criss
Chief Executive Officer